

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Xavier Antonio Cervantes, Sr.,

Civil No. 07-4738 (DWF/JJK)

Petitioner,

v.

ORDER

Warden M. Cruz,

Respondent.

Xavier Antonio Cervantes, Sr., *Pro Se*, Petitioner.

Tricia A. Tingle, Assistant United States Attorney, United States Attorney's Office,
counsel for Respondent.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeffrey J. Keyes dated December 15, 2008. No objections have been filed to that Report and Recommendation in the time period permitted.

Based upon the Report and Recommendation of the Magistrate Judge, upon all of the files, records, and proceedings herein, the Court now makes and enters the following Order.

IT IS HEREBY ORDERED that:

1. Petitioner's Application for Habeas Corpus Relief (Doc. No. 1), is
DENIED; and

2. This action is **DISMISSED WITH PREJUDICE.**

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 8, 2009

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court